

# **EXHIBIT A**

DEC 13 2004

Corporations Section

**ARTICLES OF INCORPORATION  
OF  
HOUSTON DOWNTOWN PARK CORPORATION**

We, the undersigned natural persons, each of whom is at least eighteen (18) years of age or more, a resident and a qualified voter of the City of Houston, Texas (the "City") and a citizen of the State of Texas, acting as incorporators of a corporation under the provisions of Subchapter D of Chapter 431, Texas Transportation Code, as amended (the "Act"), and Chapter 394, Texas Local Government Code, as amended (the "Local Government Code"), and the Texas Non-Profit Corporation Act (Article 1396-1.01, et seq., Tex. Rev. Civ. Stat. Ann., as amended) (the "Non-Profit Act"), do hereby adopt the following Articles of Incorporation for such corporation:

**ARTICLE I. NAME**

The name of the corporation is HOUSTON DOWNTOWN PARK CORPORATION (the "Corporation").

**ARTICLE II. NON-PROFIT**

The Corporation is a public, non-profit local government corporation.

**ARTICLE III. DURATION**

The period of the duration of the Corporation is perpetual.

**ARTICLE IV. PURPOSES, ACTIVITIES**

The Corporation is incorporated to aid and act on behalf of the City to accomplish the City's governmental purposes consisting of the acquisition, development, operation and maintenance of a new public park, open space and related facilities and amenities (collectively referred to herein as (but without such reference being construed as the actual name of such project) the "Downtown Park") in the Central Business District of Houston (the "CBD") in the vicinity of the George R. Brown Convention Center, including the following related purposes:

1. To acquire and hold fee title to certain property for the purpose of developing, operating and maintaining the Downtown Park, including but not limited to Blocks 124, 125, 127 and 249, and portions of Blocks 122, 123 and 128, South Side of Buffalo Bayou, Houston, Harris County, Texas;
2. To contract for the design, development, construction, operation and maintenance of the Downtown Park;
3. To assist in the promotion of the Downtown Park for recreational, educational and tourism opportunities within, and beautification of, the CBD for the benefit of the residents and tourists of the City and visitors to the City's George R. Brown Convention Center; and

4. To carry out such other lawful purposes as it may deem necessary or appropriate in connection with the foregoing.

The Corporation is formed pursuant to the provisions of the Act, and Chapter 394, Local Government Code, as they are enacted now or may hereafter be amended, which authorize the Corporation to assist and act on behalf of the City and to engage in activities in the furtherance of the purposes for its creation. The Corporation shall have and exercise all of the rights, powers, privileges, authority, and functions given by the general laws of Texas to non-profit corporations incorporated under the Non Profit Act, Texas Nonprofit Corporation Law, Chapter 22, Texas Business Organization Code, as it is now enacted or may hereafter be amended.

The Corporation shall have all other powers of a like or different nature not prohibited by law which are available to non-profit and local government corporations in Texas and which are necessary or useful to enable the Corporation to perform the purposes for which it is created, including the power to issue bonds, notes or other debt obligations, and otherwise exercise its borrowing power to accomplish the purposes for which it was created, provided that the Corporation shall not issue bonds, notes or other debt obligations without the consent of the City Council of the City.

The Corporation is created as a local government corporation pursuant to the Act and shall be a governmental unit within the meaning of Chapter 101, Texas Civil Practice and Remedies Code. The operations of the Corporation are governmental and not proprietary functions. The Corporation shall have the power to acquire and convey real property and interests in real property in accordance with the Act as amended from time to time.

To the extent permitted by applicable law, the Corporation shall, in the conduct of its business, comply with the City's prevailing wage and minority/women, disadvantaged business enterprise policies from time to time in effect. The Corporation shall comply with the provisions of both the Texas Open Meetings Act (Vernon's Texas Codes Annotated, Texas Government Code §§551.001 to 551.146) and the Texas Public Information Act (Vernon's Texas Codes Annotated, Texas Government Code §§552.001 to 552.353) in force in the State of Texas from time to time.

#### **ARTICLE V. NO MEMBERS**

The Corporation shall have no members and shall have no stock.

#### **ARTICLE VI. BOARD**

All powers of the Corporation shall be vested in a Board of Directors ("Board") consisting of seven (7) persons. The initial directors of the Corporation ("Director" or "Directors") shall be those persons named in Article VII. Each initial Director named in Article VII hereof shall serve for the initial term expiring on the date set forth in Article VII. Subsequent appointments shall be made by the Mayor of the City, such appointments to be subject to confirmation by the City Council of the City, with each Director serving a three (3) year term. Any Director may be removed from office at any time, with cause, by the Mayor of the City and the Mayor shall have the right to appoint a replacement for such Director, such

appointment to be subject to the confirmation by the City Council of the City. Any such removal by the Mayor shall be effective immediately and the Mayor shall appoint a replacement within sixty (60) days following such removal. The number of Directors may only be increased or decreased by an amendment to these Articles of Incorporation.

To be qualified to serve as a Director, a person must be at least eighteen (18) years old. A person need not be a resident of the City in order to be appointed to the Board of Directors except that a person who is not a resident of the City may not be appointed to the Board of Directors if the appointment of that person would result in less than a majority of the Board of Directors being residents of the City. All Directors shall be appointed by position to the Board by the Mayor of the City; provided, however, that no fewer than (3) Directors must, at the time of their initial appointment to the Board, be members in good standing of the Board of Directors of Houston Downtown Park Conservancy, a Texas non-profit corporation (or its successor). The Mayor of the City shall appoint the Chair of the Board, such appointment to be subject to confirmation by the City Council of the City.

Up to two (2) persons, who may be City employees, but need not be, as designated by the Mayor (the "Ex-Officio Members") shall serve as ex-officio, non-voting members of the Board. Upon the vacancy or resignation of such person or persons from the Board, the Mayor of the City shall thereupon appoint succeeding Ex-Officio Member(s) as ex-officio member(s) of the Board.

All other matters pertaining to the internal affairs of the Corporation shall be governed by the Bylaws of the Corporation, so long as such Bylaws are not inconsistent with these Articles of Incorporation, and the laws of the State of Texas.

## ARTICLE VII. INITIAL BOARD

The number of Directors constituting the initial Board is seven (7). The names, addresses, and positions of the seven (7) initial Directors, all of whom reside in the City, are as follows:

Position	Name	Address	Initial Term Expires
1	Barron Wallace	4623 North Roseneath Drive Houston, TX 77021	June 30, 2007
2	Thomas Castro	6146 Meadow Lake Lane Houston, TX 77057	June 30, 2007
3	Ali Saberioon	8823 Harness Creek Houston, TX 77024	June 30, 2008
4	Brady F. Carruth	7603 Riverpoint Houston, TX 77063	June 30, 2008
5	H. Joe Nelson, III	1519 Milford Houston, Texas 77006	June 30, 2009
6	Maconda B. O'Connor	2217 Welch Houston, Texas 77019	June 30, 2009
7	Nancy G. Kinder	2929 Lazy Lane Houston, Texas 77019	June 30, 2009

Nancy G. Kinder is hereby appointed and confirmed as Chair of the Board.

Dawn Ullrich and Guy Hagstette are hereby appointed as the ex-officio member(s) of the Board.

#### **ARTICLE VIII. REGISTERED OFFICE, AGENT**

The name of the initial registered agent of the Corporation is the Arturo G. Michel, and the street address of its initial registered agent is City of Houston Legal Department, 900 Bagby, 4<sup>th</sup> Floor, Houston, Texas, 77002, Attention: City Attorney.

#### **ARTICLE IX. INCORPORATORS**

The names and street addresses of the incorporators, who reside within the City, are as follows:

Name	Address
Richard Lapin	Deputy Chief of Staff to Mayor 901 Bagby, 3 <sup>rd</sup> Floor Houston, TX 77002
Guy Hagstette	Special Assistant to Mayor 901 Bagby, 3 <sup>rd</sup> Floor Houston, TX 77002
Robert Johnson	Assistant City Attorney City Attorney's Office City Hall Annex 900 Bagby, 4 <sup>th</sup> Floor Houston, Texas 77002

#### **ARTICLE X. LIMITED LIABILITY**

No Director shall be liable to the Corporation for monetary damages for an act or omission in the Director's capacity as a Director, except for liability (i) for any breach of the Director's duty of loyalty to the Corporation, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) for any transaction from which the Director received an improper benefit, whether or not the benefit resulted from an act taken within the scope of the Director's office, or (iv) for acts or omissions for which the liability of a Director is expressly provided by statute. Any repeal or amendment of this Article by the Directors shall be prospective only, and shall not adversely affect any limitation on the personal liability of a Director existing at the time of such repeal or amendment. In addition to the circumstances in which a Director is not personally liable as set forth in the preceding sentences, a Director shall not be liable to the fullest extent permitted by any amendment to the Texas statutes hereafter enacted that further limits the liability of a Director. For purposes of this Article only, an ex-officio Director shall be considered a "Director."

## **ARTICLE XI. TAX MATTERS**

In accordance with the provisions of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), and regardless of any other provisions of these Articles of Incorporation or the laws of the State of Texas, the Corporation (a) shall not permit any part of the net earnings of the Corporation to inure to the benefit of any private individual (except that reasonable compensation may be paid for services rendered to or for the Corporation in effecting one or more of its purposes); (b) shall not devote more than an insubstantial part of its activities or income to attempting to influence legislation by propaganda or otherwise, (c) shall not participate in, or intervene in (including the publication or distribution of statements) any political campaign on behalf of any candidate for public office, and (d) shall not attempt to influence the outcome of any public election or election for public office or to carry on, directly or indirectly, any voter registration drives Any income earned by the Corporation after payment of reasonable expenses, debt and establishing a reserve shall be used for the benefit of the Downtown Park

## **ARTICLE XII. DISSOLUTION**

If the Board determines by resolution that the purposes for which the Corporation was created have been substantially met and all bonds issued by and all obligations incurred by the Corporation have been fully paid, the Board may execute a certificate of dissolution which states those facts and declares the Corporation dissolved in accordance with the requirements of Section 394.026 of Vernon's Texas Codes Annotated, Local Government Code, or with applicable law then in existence

At any time after the expiration or termination of the Operating Agreement (or any amendment, restatement or replacement thereof) between the Corporation and Houston Downtown Park Conservancy relating to the operation of the Houston Downtown Park, the City Council may consider and approve an ordinance or resolution directing the Board to proceed with the dissolution of the Corporation Upon final approval of such an ordinance or resolution by City Council, the Board shall proceed with the dissolution of the Corporation in accordance with applicable state law The failure of the Board to proceed with the dissolution of the Corporation in accordance with this Section shall be deemed a cause for the removal from office of any or all of the Directors as permitted by Article VI of these Articles of Incorporation

Upon the dissolution of the Corporation, the Corporation's assets shall be distributed to the City and held and used for the benefit of the Downtown Park or, in the event the Downtown Park will not continue to exist, then to the City for public purposes

## **ARTICLE XIII. PUBLIC INSTRUMENTALITY**

The Corporation is a constituted authority and a public or governmental instrumentality within the meaning of the regulations of the United States Treasury Department and the rulings of the Internal Revenue Service prescribed and promulgated pursuant to Section 103 of the Internal Revenue Code of 1986, as amended, and the Corporation is authorized to act on behalf of the City as provided in these Articles of Incorporation However, the Corporation is not a political subdivision or political authority of the State of Texas within the meaning of its

constitution and laws, including, without limitation, Article III, Section 52 of said constitution, and no agreements, bonds, debts, or obligations of the Corporation are or shall ever be deemed to be the agreements, bonds, debts, or obligations, or the lending of credit, or a grant of public money or thing of value, of or by the City or any other political subdivision or authority or government agency of the State of Texas, or a pledge of the faith and credit of any of them.

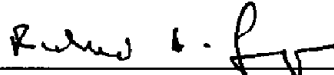
#### ARTICLE XIV. AMENDMENTS

These Articles of Incorporation may not be changed or amended unless approved by the City Council of the City.

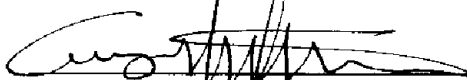
#### ARTICLE XV. SPONSOR

The City of Houston, Texas, is the sponsor of the Corporation . The City has specifically authorized the Corporation to act on the City's behalf to further the public purposes set forth above. Resolution No. 2004-22 approving the form of these Articles of Incorporation has been adopted by the City Council of the City on December 1, 2004.

IN WITNESS WHEREOF, each of the undersigned has hereunto set my hand this 10<sup>th</sup> day of December, 2004.



Richard Lapin, Incorporator  
Deputy Chief of Staff to Mayor  
901 Bagby, 3<sup>rd</sup> Floor  
Houston, Texas 77002



Guy Hagstette, Incorporator  
Special Assistant to Mayor  
901 Bagby, 3<sup>rd</sup> Floor  
Houston, Texas 77002

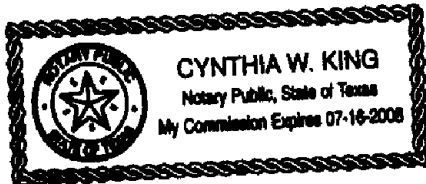


Robert Johnson, Incorporator  
900 Bagby, 4<sup>th</sup> Floor  
Houston, Texas 77002

THE STATE OF TEXAS §

COUNTY OF HARRIS §

Sworn to and subscribed before me on December 10, 2004 by Richard Lapin.

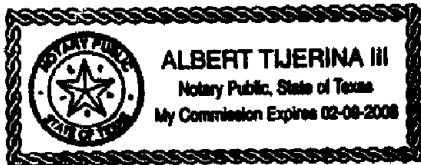


*Cynthia W. King*  
\_\_\_\_\_  
Notary Public in and for  
The State of Texas

THE STATE OF TEXAS §

COUNTY OF HARRIS §

Sworn to and subscribed before me on December 10, 2004 by Guy Haggstette.

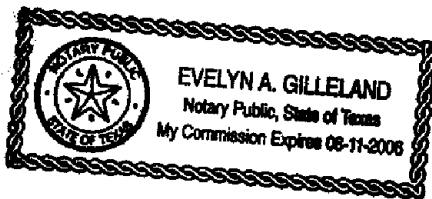


*Albert Tjerina III*  
\_\_\_\_\_  
Notary Public in and for  
The State of Texas

THE STATE OF TEXAS §

COUNTY OF HARRIS §

Sworn to and subscribed before me on December 10, 2004 by Robert Johnson.



*Evelyn A. Gilleland*  
\_\_\_\_\_  
Notary Public in and for  
The State of Texas